compliance with the Circular. *See* ¶ C.1.b.(5). of Attachment B.

- *Impose competition timeframes.* The revised Circular states that a standard competition shall be completed within one year of the public announcement that a competition will be conducted. The 4.e. official (*i.e.*, an agency assistant secretary or equivalent level official with responsibility for implementing the Circular) may waive the one-year completion requirement at announcement of the competition and set an alternative completion date if the competition is particularly complex and notification is provided to OMB. *See* ¶ C.1.b.(3). of Attachment B. These timeframes are designed to incentivize agencies to complete competitions and will instill greater confidence by all participants that agencies are committed to competitive sourcing and selecting the best provider. It will also ensure that the benefits of competition are realized.
- *Improve post competition oversight.* To ensure public providers are subjected to the same oversight that private providers routinely face, customer agencies will be required to document changes in the solicitation and agency tender and track actual costs. Before exercising an option for additional performance, the agency will be required to determine that performance by the in-house, public reimbursable, or private contract provider meets the requirements of the solicitation and that continued performance is advantageous to the agency. *See* ¶ C.5.b.(2). of Attachment B.

Mitchell E. Daniels, Jr.,

Director.

[FR Doc. 02–29472 Filed 11–15–02; 12:37 pm]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46800; File No. S7–966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Approving Amendment to the Plan Allocating Regulatory Responsibility Among the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

November 8, 2002.

Notice is hereby given that the Securities and Exchange Commission (''SEC or ''Commission'') has issued an Order, pursuant to sections 17(d) [1] and 11A(a)(3)(B) [2] of the Securities Exchange Act of 1934 (''Act''), approving an amendment to the plan for allocating regulatory responsibility filed pursuant to Rule 17d–2 of the Act,[3] by the American Stock Exchange LLC (''Amex''), the Chicago Board Options Exchange, Inc. (''CBOE''), the International Securities Exchange, Inc. (''ISE''), the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange, Inc. (''NYSE''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx'') (collectively the ''SRO participants'').

I. Introduction

Section 19(g)(1) of the Act [4] requires, among other things, every national securities exchange and registered securities association (''SRO'') to examine for, and enforce, compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to section 17(d) [5] or 19(g)(2) [6] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). This regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for, and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

To implement section 17(d)(1), the Commission adopted two rules: Rule 17d–1 [8] and Rule 17d–2 [9] under the Act. Rule 17d–1, adopted on April 20, 1976,[10] authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals only with an SRO's obligations to enforce broker-dealers' compliance with the financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices, and trading activities and practices.

To address regulatory duplication in these other areas, on October 28, 1976, the Commission adopted Rule 17d–2 under the Act.[11] This rule permits SROs to propose joint plans allocating regulatory responsibilities with respect to common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system, and in conformity with the factors set forth in section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

On October 11, 2002, the Commission published notice of the SRO participants' amended plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[12] No comments were received. The primary purpose of the amendment is to allocate regulatory responsibilities among all of the SRO participants.[13] In addition, the amended

[1] 15 U.S.C. 78q(d).

[2] 15 U.S.C. 78k–1(a)(3)(B).

[3] 17 CFR 240.17d–2.

[4] 15 U.S.C. 78s(g)(1).

[5] 15 U.S.C. 78q(d).

[6] 15 U.S.C. 78s(g)(2).

[7] Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[8] 17 CFR 240.17d–1.

[9] 17 CFR 240.17d–2.

[10] Securities Exchange Act Release No. 12352, 41 FR 18809 (May 3, 1976).

[11] Securities Exchange Act Release No. 12935, 41 FR 49093 (November 8, 1976).

[12] Securities Exchange Act Release No. 46590 (October 2, 2002), 67 FR 63474.

[13] Under the previous agreement, only the Amex, the CBOE, the NASD, and the NYSE were designated options examining authorities (''DOEAs''). *See* Securities Exchange Act Release No. 42816 (May 23, 2000), 65 FR 34759 (May 31, 2000).

plan allows an SRO participant that has been allocated regulatory responsibilities under the plan (*i.e.*, a DOEA) to contract with The Options Clearing Corporation, a national securities exchange registered under section 6(a) of the Act,[14] or a national securities association registered under section 15A of the Act [15] to perform the DOEA's responsibilities under the plan.

II. Discussion

The Commission continues to believe that the proposed plan, as amended, is an achievement in cooperation among the SRO participants and will reduce unnecessary regulatory duplication by allocating to the designated SRO the responsibility for certain options-related sales practice matters that would otherwise be performed by multiple SROs. The plan promotes efficiency by reducing costs to firms that are members of more than one of the SRO participants. In addition, because the SRO participants coordinate their regulatory functions in accordance with the plan, the plan promotes, and will continue to promote, investor protection.

With respect to the DOEA's ability to contract with another SRO to perform the DOEA's regulatory responsibilities under the plan, the Commission has previously recognized that contractual regulatory agreements between SROs outside of the Rule 17d–2 context may be permissible in instances where it is consistent with the public interest.[16] The Commission believes that it is reasonable and consistent with the public interest to allow an SRO to contract with another SRO to perform regulatory functions and services. At the same time, the Commission believes that it is important for, and that the Act requires, the ultimate responsibility and primary liability for self-regulatory failures to rest with the DOEA itself, rather than the SRO retained to perform the regulatory responsibilities. Thus, the DOEA will bear ultimate legal responsibility for the performance of the regulatory responsibilities allocated to it under the 17d–2 plan. The SRO contracting to carry out the responsibilities, however, may nonetheless bear liability for causing or, in appropriate circumstances, aiding and abetting the DOEA's violations.

This order gives effect to the amended plan submitted to the Commission that is contained in File No. S7–966. The SRO participants shall notify all members affected by the amended plan of their rights and obligations under the amended plan.

It is therefore ordered, pursuant to sections 17(d) and 11A(a)(3)(B) of the Act, that the amended plan of the Amex, the CBOE, the ISE, the NASD, the NYSE, the PCX, and the Phlx filed pursuant to Rule 17d–2 is approved.

It is further ordered that those SRO participants that are not the DOEA as to a particular member are relieved of those responsibilities allocated to the member's DOEA under the amended plan.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–29246 Filed 11–18–02; 8:45 am]

BILLING CODE 8010–01–P

[14] 15 U.S.C. 78f(a).

[15] 15 U.S.C. 78o–3.

[16] *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11401 (March 2, 2000).

[17] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to an Extension of the Permissible Maturity of Flexible Exchange Index Options to Ten Years

November 12, 2002.

[Release No. 34–46815; File No. SR–CBOE–2002–23)]

On April 30, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise CBOE Rule 24A.4, ''Terms of FLEX Options,'' to provide a maximum term of up to ten years for Flexible Exchange (''FLEX'') index options [3] under certain circumstances.

The proposed rule change was published for comment in the **Federal Register** on August 21, 2002.[4] No comments were received regarding the proposal. This order approves the proposed rule change.

Currently, CBOE Rule 24A.4(a)(4)(i) provides a maximum term of five years for FLEX index options. The CBOE proposes to amend CBOE Rule 24A.4(a)(4)(i) to provide a maximum term of up to ten years for FLEX index options, provided that the FLEX Post Official determines that sufficient liquidity exists among FLEX index participating members to support a request for a quote for such options. To determine whether sufficient liquidity exists to support a request for a quote, the FLEX Post Official will ask FLEX index market makers and other FLEX index traders (including the Submitting Member) whether they are interested in making a two-sided market in the proposed series for the size requested.[5] If the FLEX index market makers and FLEX index traders respond affirmatively, the FLEX Post Official will open a Request for Quotes for the proposed series, which will trade pursuant to the provisions of CBOE Rule 24A.5, ''FLEX Trading Procedures and Principles.''[6] The CBOE believes that this requirement will help to prevent the proliferation of longer-term FLEX index options where there is no interest in trading such options.

The margin requirements for the proposed FLEX index options will be the same as the margin requirements that apply currently to existing FLEX index options and to other listed options.[7] Thus, the required minimum initial and maintenance margin for a proposed FLEX index option with more than nine months to expiration will be at least 75% of the current market value of the option.[8] The required minimum initial and maintenance margin for a short position in the proposed FLEX index options will be the same as the margin required for short positions in other listed broad-based index options.[9]

According to the CBOE, the Exchange has received numerous requests from broker-dealers to extend the maturity of FLEX index options to ten years to permit their institutional customers that trade or issue securities with five-to ten-year terms to hedge their long-term risk. The CBOE states that the proposal will allow institutions to use long-term FLEX

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] FLEX index options allow investors to customize certain option terms, including size, expiration date, exercise style, and exercise price.

[4] *See* Securities Exchange Act Release No. 46363 (August 15, 2002), 67 FR 54243.

[5] See letter from Jaime Galvan, Attorney II, CBOE, to Yvonne Fraticelli, Division of Market Regulation, Commission, dated October 14, 2002 (''October 14 Letter'').

[6] *See* October 14 Letter, supra note 5.

[7] *See* October 14 Letter, supra note 5.

[8] *See* CBOE Rule 12.3(c)(4)(B).

[9] *See* October 14 Letter, supra note 5. Under the CBOE's rules, the required minimum initial and maintenance margin for an unhedged position in a listed broad-based index option carried short in a customer's account is 100% of the current market value of the option plus 15% of the product of the current index group value and the applicable index multiplier, reduced by any out-of-the-money amount, with a minimum margin requirement equal to 100% of the current market value of the option plus 10% of the product of the current index group value and the applicable index multiplier. See CBOE Rule 12.3(c)(5)(A).